
PRELIMINARY DRAFT
No. 3253

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2009 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 27-8-11-10; IC 27-13-1-11.5; IC 27-13-1-11.6;
IC 27-13-15-5.

Synopsis: Coverage for dialysis treatment. Specifies requirements related to payment for dialysis treatment, including coverage, billing and payment rates, claim payments, networks of dialysis facilities, and balance billing.

Effective: Upon passage.



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-8-11-10, AS ADDED BY P.L.111-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section, "dialysis facility" means an outpatient facility in Indiana at which a ~~dialysis treatment~~ provider provides dialysis treatment.

(b) As used in this section, "dialysis facility owner" means the ultimate parent entity that owns a dialysis facility. The term includes a subsidiary or affiliate of the ultimate parent entity.

~~(b)~~ (c) As used in this section, "contracted dialysis facility" means a dialysis facility that has entered into an agreement with a particular insurer under section 3 of this chapter.

~~(c)~~ (d) Notwithstanding section 1 of this chapter, as used in this section, "insured" refers only to an insured who requires dialysis treatment.

~~(d)~~ (e) As used in this section, "insurer" includes the following:

- (1) An administrator licensed under IC 27-1-25.
- (2) An agent of an insurer.

~~(e)~~ (f) As used in this section, "non-contracted dialysis facility" means a dialysis facility that has not entered into an agreement with a particular insurer under section 3 of this chapter.

(g) A policy that:

- (1) is issued by an insurer; and**
- (2) provides coverage for dialysis treatment;**

may not apply copayment, deductible, coinsurance, or other out-of-pocket expense requirements or maximum lifetime coverage limitations to the coverage for dialysis treatment that are less favorable to an insured than the copayment, deductible, coinsurance, or other out-of-pocket expense requirements or maximum lifetime coverage limitations that apply to all other medical and surgical benefits under the policy.

~~(f)~~ (h) An insurer shall not require an insured, as a condition of



coverage or reimbursement, to:

- (1) if the nearest dialysis facility is located within thirty (30) miles of the insured's home, travel more than thirty (30) miles from the insured's home to obtain dialysis treatment; or
- (2) if the nearest dialysis facility is located more than thirty (30) miles from the insured's home, travel a greater distance than the distance to the nearest dialysis facility to obtain dialysis treatment;

regardless of whether the insured chooses to receive dialysis treatment at a contracted dialysis facility or a non-contracted dialysis facility.

(i) A payment rate established by an insurer for payment to a dialysis facility owner for dialysis treatment provided to an insured at a non-contracted dialysis facility must:

- (1) not be based on payment rates for dialysis treatment under Medicare or Medicaid; and**
- (2) equal at least the average amount paid by the insurer to the dialysis facility owner for dialysis treatment provided during the twelve (12) month period ending January 1, 2007, at non-contracted dialysis facilities in Indiana.**

However, a payment rate established under this subsection may, in any calendar year after December 31, 2009, be decreased by not more than three percent (3%) of the payment rate then in effect.

(j) An insurer shall do the following:

- (1) Make all claim payments for dialysis treatment payable only to the dialysis facility and not to the insured, regardless of whether the dialysis treatment is provided in a contracted dialysis facility or a non-contracted dialysis facility.**
- (2) Include in the insurer's network, at all times, not less than fifty percent (50%) of the dialysis facilities in the geographic area in which health care services are provided by the network.**

(k) A dialysis facility or provider shall not bill an insured for any amount in excess of:

- (1) the amount paid by the insurer; plus**
- (2) any applicable copayment, deductible, coinsurance or other out-of-pocket expenses paid by the insured;**

in connection with dialysis treatment. An insurer that receives from an insured written proof that a dialysis facility or provider has violated this subsection shall not reimburse the dialysis facility or provider for any health care services rendered to any insured until the insurer receives written proof that the dialysis facility or provider has canceled the bill and reimbursed the insured in full any amount paid in relation to the amount billed in violation of this subsection.

(l) The department may adopt rules under IC 4-22-2 to implement this section.



SECTION 2. IC 27-13-1-11.5, AS ADDED BY P.L.111-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. "Dialysis facility" means an outpatient facility in Indiana at which a ~~dialysis treatment~~ provider provides dialysis treatment.

SECTION 3. IC 27-13-1-11.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.6. "Dialysis facility owner" means the ultimate parent entity that owns a dialysis facility. The term includes a subsidiary or affiliate of the ultimate parent entity.**

SECTION 4. IC 27-13-15-5, AS ADDED BY P.L.111-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Notwithstanding IC 27-13-1-12, as used in this section, "enrollee" refers only to an enrollee who requires dialysis treatment.

(b) As used in this section, "health maintenance organization" includes the following:

(1) A limited service health maintenance organization.

(2) An agent of a health maintenance organization or a limited service health maintenance organization.

(c) An individual contract or a group contract that provides coverage for dialysis treatment may not apply copayment, deductible, coinsurance, or other out-of-pocket expense requirements or maximum lifetime coverage limitations to the coverage for dialysis treatment that are less favorable to an enrollee than the copayment, deductible, coinsurance, or other out-of-pocket expense requirements or maximum lifetime coverage limitations that apply to all other medical and surgical benefits under the individual contract or group contract.

~~(c)~~ (d) A health maintenance organization shall not require an enrollee, as a condition of coverage or reimbursement, to:

(1) if the nearest dialysis facility is located within thirty (30) miles of the enrollee's home, travel more than thirty (30) miles from the enrollee's home to obtain dialysis treatment; or

(2) if the nearest dialysis facility is located more than thirty (30) miles from the enrollee's home, travel a greater distance than the distance to the nearest dialysis facility to obtain dialysis treatment;

regardless of whether the enrollee chooses to receive dialysis treatment at a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(e) A payment rate established by a health maintenance organization for payment to a dialysis facility owner for dialysis treatment provided to an enrollee at a dialysis facility that is not a participating provider must:

(1) not be based on payment rates for dialysis treatment



under Medicare or Medicaid; and

(2) equal at least the average amount paid by the health maintenance organization to the dialysis facility owner for dialysis treatment provided during the twelve (12) month period ending January 1, 2007, at dialysis facilities in Indiana that were not participating providers.

However, a payment rate established under this subsection may, in any calendar year after December 31, 2009, be decreased by not more than three percent (3%) of the payment rate then in effect.

(f) A health maintenance organization shall do the following:

(1) Make all claim payments for dialysis treatment payable only to the dialysis facility and not to the enrollee, regardless of whether the dialysis treatment is provided in a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(2) Include in the health maintenance organization's network, at all times, not less than fifty percent (50%) of the dialysis facilities in the geographic area in which health care services are provided by the network.

(g) A dialysis facility or provider shall not bill an enrollee for any amount in excess of:

(1) the amount paid by the health maintenance organization; plus

(2) any applicable copayment, deductible, coinsurance, or other out of pocket expenses paid by the enrollee;

in connection with dialysis treatment. A health maintenance organization that receives from an enrollee written proof that a dialysis facility or provider has violated this subsection shall not reimburse the dialysis facility or provider for any health care services rendered to any enrollee until the health maintenance organization receives written proof that the dialysis facility or provider has canceled the bill and reimbursed the enrollee in full any amount paid in relation to the amount billed in violation of this subsection.

(h) The department may adopt rules under IC 4-22-2 to implement this section.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) IC 27-8-11-10, as amended by this act, applies to an agreement between an insurer and a dialysis facility that is entered into, amended, or renewed on or after the effective date of this act.

(b) IC 27-13-15-5, as amended by this act, applies to a contract between a health maintenance organization and a dialysis facility that is entered into, amended, or renewed after the effective date of this act.

SECTION 6. An emergency is declared for this act.

